



REPUBLIC OF KENYA

IN THE COURT OF APPEAL OF KENYA

AT ELDORET

CIVIL APPLI 323 OF 2006 (ELD 22/2006)

LAZARUS K. KERICH APPLICANT

AND

REPUBLIC 1ST RESPONDENT

KESSES LAND DISPUTES TRIBUNAL 2ND RESPONDENT

JOSEPH KIPLAGAT MWEI 3RD RESPONDENT

(Application for extension of time to serve notice of appeal out of time in an intended

appeal from the ruling and order of the High Court of Kenya at

Eldoret (Gacheche, J) dated 3rd October, 2006

in

H.C. Misc. Application No. 37 of 2002)

RULING

I have before me a notice of motion dated 6th December 2006 seeking that the time for serving the notice of appeal from the ruling and order of the Honourable Lady Justice Gacheche delivered on the 3rd October 2006 in Eldoret High Court Miscellaneous Civil Application No. 37 of 2002 on the 2nd and 3rd respondents be extended and that the notice of appeal lodged in Eldoret High Court Misc. Civil Application No. 37 of 2002 on the 12th October 2006 and served on the 2nd & 3rd respondents on 23rd and 27th October 2006 respectively be deemed to have been duly served. The application is not opposed

and Mr. Manani for the third Respondent submits as much. The 1st and 2nd respondents were served but are not before me today. Reasons for seeking the order are annexed to the application and are in my humble view, meritorious. In the circumstances, the application is allowed. The time for serving notice of appeal as indicated above is extended to such time that the service of the same notice upon the 2nd and 3rd respondents on 23rd and 27th October 2006 respectively is deemed to have been proper service. The parties agree by consent that the 3rd respondent will have the costs of this application and so be it. Costs of the application to the 3rd respondent. As the 1st and 2nd respondents are not in attendance though served, they will not have the costs of the application. Order accordingly.

Dated and delivered at Eldoret this 22nd day of February, 2007.

J.W. ONYANGO OTIENO

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR